"ON EARTH, PEACE."

ADDRESS

OF CONGRATULATION AND COMMENDATION OF THE
NEW YORK STATE BAR ASSOCIATION
TO

His Imperial Majesty,
Nicholas II,
Emperor of all the Russias,

ON THE OCCASION OF THE PEACE CONGRESS AT THE HAGUE
AND RECOMMENDING THE CREATION OF AN

INTERNATIONAL COURT.

TO HIS IMPERIAL MAJESTY, NICHOLAS II., EMPEROR OF ALL THE RUSSIAS.

The New York State Bar Association avails itself of this manner of expressing to Your Imperial Majesty its profound gratification at the action of Your Imperial Majesty in soliciting the attendance of representatives of all nations at a conference for deliberation on subjects of international significance. It was indeed a happy inspiration that prompted so pacific and so magnanimous an act. The measure of its influence will not be unfolded for many generations, but posterity will surely point to the Congress at The Hague as the beginning of a new era in the world's history, when Reason ascended the tribunal and nations paid court to her decrees.

In view of the signal dissimilitude existing between the social conditions and customs of the Empire of Russia and those of the English speaking Republic of America, it will not appear

inopportune to direct attention to the fact that the occupation of the law in America is classed among the honorable and lettered professions. Men of that calling are sought for to assume the duties of the most responsible public positions. More than three-fourths of those who have filled the important office of President were taken from the legal profession. The present incumbent of that position and his five immediate predecessors were barristers. This fact is not mentioned in disparagement of other avocations or professions but solely in explanation of the prominence of the membership of the Bar, which might otherwise seem obtrusive, in matters of international moment.

The Bar Association of the State of New York is a Brotherhood of men whose lives are passed in the adjustment of legal controversies. Some of them sit in judgment on disputed claims, while the greater number appear before the bar of courts of justice in behalf of litigants to secure or defend personal rights. These walks, though they lead through labyrinths of litigation and confusion, are neverless paths of peace. The

lessons they teach are lessons of patience, constancy, impartiality and integrity. They conduct invariably to the conclusion that rules of law and equity are always adequate for the complete satisfaction of every rational demand made by one man or by any number of men upon others. Taught in this school it need hardly be subject for surprise that the members of such a profession look forward eventually to the adjustment of all international differences by the same peaceful methods that are now applied to personal controversies; and, to that end, they hail with enthusiasm every indication that implies a movement, toward the fulfillment of the manifest destiny of Christian civilization—the substitution of Right for Might in intercourse between nations.

While the codification of a system of judicious international laws and the establishment of a court to expound and enforce them are not directly within the scope of the subjects suggested by Your Imperial Majesty for the consideration of the Congress, yet the Bar Association observes with especial pleasure that among the

last suggestions by Your Imperial Majesty for consideration at The Hague is one that bears chiefly upon the "principle of the using of good "offices of mediation and arbitration, to the end "of preventing armed conflicts between nations." As the Association has said in an address to the President of the United States, may not this subject for the deliberation of the Congress "have hidden within it the germ of all the others, "and, like the stone rejected of the builders, may "it not be found to have been designed, and it "alone to be adapted, for the head of the corner "of the projected structure, in comparison with "which every other stone is of secondary sig-"nificance?"

On a former occasion, when the people of the United States were in imminent peril of entering into a physical conflict with a kindred people across the sea, the duty seemed to rest upon the New York State Bar Association of taking an active part in shaping public opinion in this country and of seeking a plan by which all international controversies that appear to be beyond adjustment by ordinary diplomatic agen-

cies, may be settled without resort to arms. A plan for an International Court was devised and submitted to the President by the Association. Subsequently some of the suggestions of the Association were found to be useful in the negotiation of treaties between the governments of Great Britain and the United States. In order that Your Imperial Majesty may be made familiar with this work of the Association, and especially to the end that that work may be beneficial to the deliberations of the Congress of the nations about to assemble at The Hague, there is appended hereto a copy of the Memorial to the President, together with its plan for an International Court and the address of a member of the Association, Dr. Chauncey M. Depew, now United States Senator, delivered before the Association in 1896.

It is proper to add that the Bar Association is not wedded to any specific plan for an International Court. It will as gladly support any other scheme for such a court which has in it the necessary elements of utility and stability. Its one aim and purpose is to secure

the universal recognition of the principle of arbitration and the early adoption by all nations of peaceful methods for the settlement of international differences. It would not lessen its watchful care over peacefully disposed communities while there lurks any danger from that element of society which still exists in them that thrives on others' misfortunes and seeks to multiply them by its own overt acts. In other words, it would not disband the police force or unnecessarily cripple it by reduction until it becomes clearly apparent that conditions have so far improved as to make such policy consistent with the best interests of the community. It would educate and assimilate conflicting elements as rapidly as consonant with existing conditions on the broad lines of Christian utility and philanthropy.

The Brotherhood of the legal profession of the State of New York feels that the action of Your Imperial Majesty is a long step towards the fulfillment of this great purpose among the civilized powers of the world, and it extends to Your Imperial Majesty its unmeasured

congratulations upon the happy circumstance that has made Your Imperial Majesty the instrument, in the hands of Divine Providence, for the inauguration of so propitious and so grand a movement as is embraced in the conference of the nations on subjects of peaceful import. The Association also ventures earnestly to solicit Your Imperial Majesty's powerful influence and active coöperation at the coming Congress in seeking the early organization of an International Court that may eventually hold jurisdiction over grave matters of international importance and thereby secure the happy consummation of all the worthy aspirations of Your Imperial Majesty in calling for conference the Christian Powers of the world. In holiday attire, with arms stacked, the battalions of the nations already mark time to the music of a new song, yet old as the Christian centuries, that Your Imperial Majesty has renewed in the hearts of the people of all nations: "On Earth, Peace, Good will toward men."

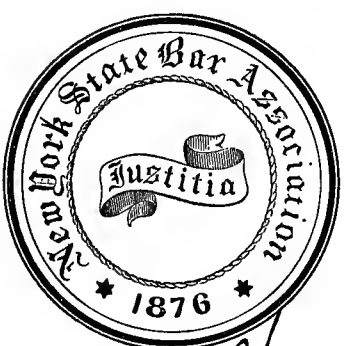
With assurances of high regard and distinguished consideration, personally and on behalf

of the membership of the Bar Association of the State of New York, we cordially subscribe ourselves, Your Imperial Majesty's

Very obedient servants,

W. Martin Jones
William D. Veeder
Edward G. Whitaker

COMMITTEE OF THE NEW YORK STATE BAR ASSOCIATION,



Attested in behalf of the New York State Bar Association. at the Capitol in the City of Albany, N. Y., April 24th, 1899.

Walter S. Logan
President.

Fred E. Wadhams
Secretary.

MEMORIAL

OF THE

New York State Bar Association to the President, Recommending the Creation of an

INTERNATIONAL COURT OF ARBITRATION.

TO THE PRESIDENT:

The Petition of the New York State Bar Association respectfully shows :

That, impelled by a sense of duty to the state and nation and a purpose to serve the cause of humanity everywhere, your Petitioner at its annual session held in the city of Albany on the 22nd day of January, 1896, appointed a committee to consider the subject of International Arbitration and to devise and submit to it a plan for the organization of a tribunal to which may hereafter be submitted controverted international questions between the governments of Great Britain and the United States.

That said committee entered upon the performance of its duty at once, and, after long and careful deliberation, reached the conclusion that it is impracticable, if not impossible, to form a satisfactory Anglo-American Tribunal, for the adjustment of grave international con-

troversies, that shall be composed only of representatives of the two governments of Great Britain and the United States.

That, in order that the subject might receive more mature and careful consideration, the matter was referred to a sub-committee, by whom an extended report was made to the full committee. This report was adopted as the report of the full committee, and, at a Special Meeting of the State Bar Association called to consider the matter, and held at the State Capitol in the city of Albany on the 16th day of April, 1896, the action of the committee was affirmed and the plan submitted fully endorsed. As the report referred to contains the argument in brief, both in support of the contention that it is impracticable to organize a court composed only of representatives of the governments of Great Britain and the United States, and in support of the plan outlined in it, a copy of the report is hereto appended and your Petitioner asks that it be made and considered a part of this Petition.

That your Petitioner cordially endorses the principle of arbitration for the settlement of all controversies between civilized nations, and it believes that it is quite within the possibility of the educated intellects of the leading Powers of the world to agree upon a plan for a great central World's Court that, by the common consent of nations, shall eventually have jurisdiction of all disputes arising between Independent Powers that cannot be adjusted by friendly diplomatic negotiations. Holding tenaciously to this opinion and, conscious that there must be a first step in every good work, else there

will never be a second, your Petitioner respectfully but earnestly urges your early consideration of the subject that ultimately—at least during the early years of the coming century—the honest purpose of good men of every nation may be realized in devising means for the peaceful solution of menacing disputes between civilized nations. Your Petitioner therefore submits to you the following recommendations:

FIRST: The establishment of a permanent International Tribunal, to be known as "The International Court of Arbitration."

SECOND: Such court to be composed of nine members, one each from nine independent states or nations, such representative to be a member of the Supreme or Highest Court of the nation he shall represent, chosen by a majority vote of his associates, because of his high character as a publicist and judge, and his recognized ability and irreproachable integrity. Each judge thus selected to hold office during life or the will of the court selecting him.

THIRD: The court thus constituted to make its own rules of procedure, to have power to fix its place of sessions and to change the same from time to time as circumstances and the convenience of litigants may suggest and to appoint such clerks and attendants as the court may require.

FOURTH: Controverted questions arising between any two or more Independent Powers, whether represented in said "International Court of Arbitration" or not, at the option of said Powers, to be submitted by treaty between said Powers to said court, providing only

that said treaty shall contain a stipulation to the effect that all parties thereto shall respect and abide by the rules and regulations of said court, and conform to whatever determination it shall make of said controversy.

FIFTH: Said court to be open at all times for the filing of cases and counter cases under treaty stipulations by any nation, whether represented in the court or not, and such orderly proceedings in the interim between sessions of the court, in preparation for argument, and submission of the controversy, as may seem necessary, to be taken as the rules of the court provide for and may be agreed upon between the litigants.

SIXTH: Independent Powers not represented in said court, but which may have become parties litigant in a controversy before it, and, by treaty stipulation, have agreed to submit to its adjudication, to comply with the rules of the court and to contribute such stipulated amount to its expenses as may be provided for by its rules, or determined by the court.

Your Petitioner also recommends that you enter at once into correspondence and negotiation, through the proper diplomatic channels, with representatives of the governments of Great Britain, France, Germany, Russia, The Netherlands, Mexico, Brazil and the Argentine Republic, for a union with the government of the United States in the laudable undertaking of forming an International Court substantially on the basis herein outlined.

Your Petitioner presumes it is unnecessary to enter into further argument in support of the foregoing propositions than is contained in the report of its committee, which is appended hereto and which your Petitioner has

already asked to have considered a part of this Petition. Your Petitioner will be pardoned, however, if it invite especial attention to that part of the report emphasizing the fact that the plan herein outlined is intended, if adopted, at once to meet the universal demand among English speaking people for a permanent tribunal to settle contested international questions that may hereafter arise between the governments of Great Britain and the United States.

While it is contended that it is wholly impracticable to form such a tribunal without the friendly interposition of other nations on the joint invitation of the Powers who unite in its organization, it is very evident that a most acceptable permanent International Court may be speedily secured by the united and harmonious action of said Powers as already suggested. Should obstacles be interposed to the acceptance, by any of the Powers named by your Petitioner, of the invitation to name a representative for such a court on the plan herein generally outlined, some other equally satisfactory Power could be solicited to unite in the creation of such a court.

Believing that, in the fulfillment of its destiny among the civilized nations of the world, it has devolved upon the younger of the two Anglo-Saxon Powers, now happily in the enjoyment of nothing but future peaceful prospects, to take the first step looking to the permanency of peace among nations, your Petitioner, representing the Bar of the Empire State, earnestly appeals to you as the Chief Executive officer of the government of the United States, to take such timely action as shall lead eventually to the organization of such a tribunal

as has been outlined in the foregoing recommendations. While ominous sounds of martial preparations are in the air, the shipbuilder's hammer is industriously welding the bolt, and arsenals are testing armor plates, your Petitioner, apprehensive for the future, feels that delays are dangerous, and it urgently recommends that action be taken at once by you to compass the realization of the dream of good men in every period of the world's history, when nations shall learn war no more and enlightened Reason shall fight the only battles fought among the children of men.

And your Petitioner will ever pray.

Attested in behalf of the New York State Bar Association at the Capitol in the City of Albany, N. Y., April 16th, 1896.

ED. G. WHITAKER,
President.

L. B. PROCTOR,
Secretary.

REPORT OF THE COMMITTEE.

To HON. WILLIAM D. VEEDER,

Chairman Committee on International Arbitration of the New York State Bar Association, and Associates:

GENTLEMEN: It was your pleasure at the first session of the committee to assign to us the duty of devising and presenting to you a plan for the creation of a Court of Arbitration to which may be submitted controverted international questions between the governments of Great Britain and the United States.

It may hereafter be worthy of remembrance, and we therefore note the fact, that the first meeting of the committee was held on the 12th day of February, the anniversary of the birth of that great American patriot and statesman, Abraham Lincoln, and the first occasion of its celebration as a public holiday in the Empire State. It seems to us that it was a most fitting occasion for the inauguration of a movement looking to the permanency of peace among nations—a day so recently set apart as a memorial in honor of the birth of one who, though the central figure and the controlling genius in the most gigantic war of modern times, was a man who loved

peace better than he loved his life, and whose memory savors of the sweetest inspirations of the brotherhood of the entire human family and of the fatherhood of an inscrutable First Cause.

We have approached this duty with many misgivings. The interests involved in the undertaking are so momentous, the problem to be solved so stupendous, and the action of the committee, if finally crystallized into a system for the eventual abolition of bloodshed among the civilized nations of the world, is freighted with such vast possibilities, that we pause on the threshold of our endeavor, oppressed with a feeling of the inadequateness of man's ability to compass such gigantic conclusion. Our duty, however, seems clear, and that is, to make the trial; and, in memory of blood-washed battlefields on every continent, and of the wrongs and of the rights of humanity everywhere, we apply ourselves to the undertaking with honest effort.

In the outset we find ourselves confronted with a problem of no mean proportions. By the resolution under which the committee is acting, we are expected to devise a plan for the creation of an Anglo-American court, and international only as between the governments of Great Britain and the United States, while no specific instructions have been formulated for our guidance. It is contended by some members of our Association,—men who are recognized among the ablest legal writers and practitioners of the state,—that it is quite within the practicable possiblities to create such a court, with only citizens of the two nations to constitute it, and that it is the duty of the committee to formulate

such a plan and present it to the Association. As a sub-committee, we find ourselves quite unable to participate in the belief that men of our own or of any profession, in any country, have attained to that ideal state of universal citizenship when, as members of a great International Tribunal, they can so forget kindred and country as to sit in judgment, with perfect impartiality, upon the sins of omission and of commission, of their own fatherland. "My country, right or wrong!" may, in the sweet millennial time toward which we trust the world is moving, give place to the wiser and more equitable declaration, "My country right, but never wrong!" but the boundary lines between nations are still too closely drawn, and the blood flows yet too warmly in the veins of the children of our fathers, to contemplate with perfect tranquillity the submission of controversies to interested litigants for impartial adjudication.

We therefore confess our inability to provide any plan by which a court composed of an equal membership of each government can be created to which such differences can be submitted with the expectation that a judgment may be rendered by it that will be respected by both litigants. It would be very like two litigants in a subordinate court selecting an equal number of jurors or arbitrators from their respective friends, all of whom should be personally interested in the outcome of the litigation, and then expect to secure a majority of such court in favor of either party.

It is manifest, that to arrive at any decision and render a judgment that litigants will respect, a majority of the

court must concur in its findings. In the first place, a case will not reach a court of the character contemplated until the representatives of the respective governments have exhausted every diplomatic effort to come to an amicable adjustment of the disputed question without further friction than grows out of the seemingly cordial correspondence carried on between the high functionaries of the foreign offices of the two nations. It is only when these agencies prove unequal to the emergency, when diplomacy is inadequate and friendly relations are strained, when—without an impartial tribunal competent to settle the controversy—the time comes when passports are about to be exchanged, that steps will be taken to make a case for submission to such a court. It is evident, then, to the most unlettered citizen of either country, that under such circumstances no case can be successfully submitted to a tribunal composed of an equal number of citizens of the two countries and that neither nation will consent to the formation of a court in which it will have an unequal voice and influence. If this contention is true, then it must be conceded that it is futile to expect that any beneficial result can be secured from a court evenly balanced between two contending parties.

The great question of international arbitration is too important, in the eyes of all good men of every civilized nation, to be lightly dismissed, and we feel that every honest endeavor should be put forth to devise some plan for it, even if we must abandon any scheme that contemplates the exclusion of other than English speaking people from participation in the deliberations of such a

court and final benefits to be derived from it. We cordially endorse the principle of arbitration, and we believe it practicable and possible. Holding fast to this tenet, we believe that the duty of the New York State Bar Association will not be fully performed until it has exhausted every method within its reach to bring about the creation of a tribunal to which may be submitted all grievances between civilized nations with the same confidence in the justice and equity of its final decrees as is now experienced in the submission of other contentions to high courts of judicature among the nations of the world.

While grave differences in matters of judicial proceedings, social customs and modes of thought still exist between the Anglo-Saxon and the Latin races, and, to the casual observer, insurmountable difficulties appear to stand in the way of any closer relations than now exist between nations of so widely divergent antecedents, we cannot share these apprehensions, and we believe the hour has struck when these two great peoples may be brought into closer relationship. Standing almost on the threshold of a new century, in the closing hours of the old, and looking back over the years that are already compassed within it, we are forced to admit that, in the rapid strides that have been made in the sciences and in many useful discoveries and inventions during its years, improvements in the modes of legal procedure and in the methods of adjustment of menacing disputes, especially between nations, have not kept pace with other civilizing forces. While steam and electric appliances have diminished distances, and have drawn nations into

closer relations socially and commercially, standing armies still confront us, and the seas are resplendent with steel-plated battleships and brilliantly uniformed navies. We sit *tête-a-tête*, while the knife looks out of our belt and a Winchester rifle or a needle gun stands behind each one of us. Can we change these accessories? That is the question.

We hold to the opinion that these two great races have reached a stage of development when, in the interests of humanity, a grand effort should be made to create a tribunal that, in time, shall grow into a central international court, to which shall be submitted all grave international questions that threaten the peace of nations and the prosperity of the world. As we look abroad and among the nations that are now in friendly intercourse politically, commercially and religiously, we see a growing disposition on the part of the representatives of all these peoples to draw closer together in their general relations, and to minimize the evils that grow out of international disputes.

Reviewing the situation, therefore, it appears to us, acting as a part of the Committee created by the State Bar Association, that we shall not have done our full duty in the premises if we do not present to you a plan by which more than the governments of the United States and Great Britain shall be brought into these closer relations, and eventually submit to an impartial court, controversies that cannot be adjusted by diplomatic negotiations. Without waiting further instructions from the committee, we have, therefore, canvassed this subject from the high standpoint of the greatest good

to the greatest number, and beg to submit to the committee a plan which, if adopted, we feel will lead eventually to the results desired. It must be conceded that this plan embraces more than has been referred to us, but, as the greater includes the less and only by the adoption of a plan that brings into these closer relations other nations than those using the English language, can we hope for the attainment of the ends sought for, we venture to give the result of our deliberations. We, therefore recommend:

FIRST: A permanent International Tribunal, to be known as "The International Court of Arbitration."

SECOND: Such court shall be composed of nine members, one each from nine independent states or nations, such representative to be a member of the Supreme or Highest Court of the nation he shall represent, chosen by a majority vote of his associates, because of his high character as a publicist and judge and his recognized ability and irreproachable integrity. Each judge thus selected shall hold office during life or the will of the court selecting him.

THIRD: The court thus constituted shall make its own rules of procedure, shall have power to fix its place of sessions, and to change the same from time to time as circumstances and the convenience of litigants may suggest, and shall appoint such clerks and attendants as the court may require.

FOURTH: Controverted questions arising between any two or more Independent Powers, whether represented in said "International Court of Arbitration" or not, may be submitted by treaty between said Powers to

said court, providing only that said treaty shall contain a stipulation to the effect that all parties thereto shall respect and abide by the rules and regulations of said court, and conform to whatever determination it shall make of such controversy.

FIFTH: Said court shall be open at all times for the filing of cases and counter-cases under treaty stipulations by any nation, whether represented in the court or not, and such orderly proceeding in the interim between sessions of the court in preparation for argument and submission of the controversy, as may seem necessary, may be taken as the rules of the court provide for and may be agreed upon between the litigants.

SIXTH: Independent Powers not represented in said court but which have become parties litigant in a controversy before it, and by treaty stipulation have agreed to submit to its adjudication, shall comply with the rules of the court and shall contribute such stipulated amount to its expenses as may be provided for by its rules or determined by the court.

To secure early consideration of this important question and harmonious action on the part of all citizens of this and other countries who favor the organization of such a tribunal, we also recommend:

SEVENTH: That the President of the United States be respectfully memorialized, on behalf of the New York State Bar Association, and of such other Bar and other associations in this country as may be pleased to join therein at once to enter into negotiations with the representatives of the governments of Great Britain, France, Germany, Russia, The Netherlands, Mexico, Brazil and

the Argentine Republic for a union with the government of the United States in the laudable undertaking of forming an International Court substantially on the basis herein outlined.

EIGHTH: That correspondence be opened immediately with other Bar Associations in the United States, the action of the Bar Association of the State of New York communicated to them, and that such associations and other organizations, societies and individuals be invited to join in said memorial to the president, in order that action by the government of the United States be secured at as early a date as seems practicable and consonant with such an enterprise and the dignity of the undertaking.

NINTH: That correspondence be also entered into with like legal bodies in Great Britain, its colonies and other countries believed to be interested in such a movement, having for its purpose the encouragement of every effort among civilized people to compass peace and strengthen the bonds of brotherly love among nations.

In presenting this plan, we have not overlooked the fact that there are many obstacles to be overcome before a tribunal that may be entitled to rank as an International Court can become a reality. We are not unconscious of the fact also, that many good citizens of our country, whose opinions are worthy of most careful consideration, maintain that a court of the character outlined in these recommendations is Utopian and impossible. Here is a broad field for argument, but we have endeavored to keep out of it as far as possible. We do believe some plan, be it the one we now present, one

at all similar to it, or one entirely remote from it, is possible, and will eventually be a consummation among the civilized nations of the globe, and that there is nothing more Utopian or impossible in such a dream than has appeared in many other dreams looking to a higher civilization among the children of men.

To appreciate the possibilities that may attend upon the advent of a new generation and may ultimately enter into its history, one must hold close communion with the fictions of its predecessors. Evolutions are the products of the years and they wait on intellectual and moral forces equally with the material. The Utopia of one century is the Achievement of the next. Thomas More wrote fiction; Thomas Edison is leaving the imprint of fact on things material about him, and yet how very like are the lines of thought and study these men of genius pursued in their respective generations. A great International Court for the settlement of international disputes may be the Utopia of to-day, but none the less the Attainment of to-morrow. We shall not keep step with the progressive spirit of the century if we are not prepared to move on to much higher ground than we now occupy in the adjustment of legal controversies among men and nations. The suggestions we have made are but the invitation to go up higher.

In these recommendations we have not attempted to enter into details in the formation of the proposed court, further than to provide for the number of judges to constitute it, and some essential matters that must necessarily be cared for in its organization. We have named nine Powers whose representatives we think should be

called to constitute this court. These nine Powers appear to be such as would most promptly recognize the importance of such a tribunal, and that would readily second the movement looking to its organization. We do not presume to exclude other nations or to intimate by our designation of those named, that representatives from other nations may not be just as worthy and just as satisfactory in every respect to enter into the composition of this court, but, believing that in the selection of the members of such a court both Europe and America should be represented in as nearly equal parts and on as nearly equal terms as circumstances permit, we have designated the nine countries named in our seventh recommendation. We do not need to invite attention to the fact that only four of the nine nations specified by us are on the American continent, while five are in Europe; still it seems to us that this division is only a proper one, and that there can hardly be any fair criticism of our work on account of it. These nations are among the most enlightened and powerful on the two continents and unquestionably each one of them has a high court from which may be selected a most satisfactory representative to sit as an arbiter in a great central tribunal.

The plan proposed by us for the selection of this court appears to be the most feasible and least objectionable of the several plans that have suggested themselves. The members of the highest courts of these different governments are selected for their known ability and integrity and it is presumed that they are all chosen for life, or during good behavior. They are as far removed from

political influences as any body of men can well be, and it is the opinion of your sub-committee that no better plan can be devised for the formation of an impartial international tribunal than to have nine judges selected from nine such courts, who are beyond the reach of political influence and personal ambition. For the same reason, we have provided for a change in the court when, by reason of incapacity or other cause a member of the court who has been selected is found unable properly to represent his government in the sittings of the court.

We are of the opinion that the selection of the court and the power to make changes in it from time to time should be left wholly to the Supreme Courts of the respective Powers represented in the International Court. There are many other methods that have suggested themselves, but not one of these seems so free from objection, as the one we have named in our second recommendation. Appointment by an Executive is open to the criticism of possible political influence, while the Supreme Court of a nation embodies the highest and profoundest judicial conception and is too remote from improper influences to yield to any pressure not designed to serve the highest purposes of so important an enterprise.

We ought also to explain that we believe it unnecessary, in the formation of this court, for the governments composing it to enter, in advance of its construction, into any treaty stipulations in regard to it. We think the work of organization can be done by the legislative and executive branches of the several governments,

without resort to treaty negotiations. There may be no objection to a general treaty between these governments, looking to the formation of this court, but it appears to us that the time for treaty stipulations to be entered into is when two or more governments, either represented in this court or outside of it, recognize its utility and accept it as their "peace maker," or, in a specific case, without such full acquiescence, find themselves in a position where they are unable, by ordinary diplomatic negotiations, to settle a controversy that threatens amicable relations between them. Then such a treaty may be entered into and the permanency of the court recognized, or their specific controversy submitted to the tribunal that has already been provided by wise legislation on the part of the several Powers represented in it.

The wisdom of the plan we present may be questioned on the ground that it embraces too much, and that the time has not arrived when so many Powers may be prompted to entertain a project for a great central international tribunal. We take occasion, however, to observe that this proposition is intended to meet the present almost universal demand for a permanent court for the settlement of controversies that may arise between the governments of Great Britain and the United States, while it is at the same time sufficiently flexible to be adapted to the necessities of other nations as they may learn its utility. It appears to us that a court designed to perform such an important office between two great nations ought not to contain a less number than nine members, as, in case of a dispute, two of the members would be interested as parties litigant, thus leaving the

decision in reality to be made by the remaining seven members of the court. To set the machinery of such a court in motion requires a treaty only between the two Anglo-Saxon nations,—Great Britain and the United States. By the terms of this treaty the two nations interested in the creation of the court would need but to invite the other Powers named in our seventh recommendation, as an act of comity between friendly nations, to select seven members of the court in conformity with the foregoing propositions. It will be unnecessary for any other nation to join in such a treaty, as, by the act of the two English speaking Powers, and by virtue of the treaty stipulations between them, a permanent "International Court of Arbitration" would become an established fact. It is believed that, if such a court be once recognized and accepted by two such Powers, its ultility will force recognition and adoption by other nations seeking honorable adjustment of vexatious international questions.

We also submit to you a form of memorial to be addressed to the President of the United States, in which are outlined the recommendations herein presented, and we recommend that this memorial be presented to the President without delay and that other associations and organizations be invited to join therein as contemplated in the foregoing recommendations.

All of which is respectfully submitted by your subcommittee, at the State Capitol in the City of Albany, N. Y., April 16, 1896.

W. MARTIN JONES.
WALTER S. LOGAN.

To the New York State Bar Association:

The foregoing Report of the Sub-committee of the Committee on International Arbitration appointed by the State Bar Association was duly submitted to the full Committee in session at the State Capitol in the city of Albany on the 16th day of April, 1896; and, on motion duly made, said report was endorsed and adopted as the report of the full Committee to the State Bar Association. It is therefore, herewith, respectfully submitted as the report of your Committee.

State Capitol, Albany, N. Y., April 16th, 1896.

WILLIAM D. VEEDER, Chairman, Brooklyn.
WALTER S. LOGAN, New York.
W. MARTIN JONES, Rochester.
SHERMAN S. ROGERS, Buffalo.
JOHN I. GILBERT, Malone.
CHARLES A. DESHON, New York.
WILLIAM H. ROBERTSON, Katonah.
EDWARD G. WHITAKER, New York.
CHARLES M. DAVISON, Secretary, Saratoga.
Committee.

CHAUNCEY M. DEPEW, New York,
JOHN B. MOORE, Columbia College.
Advisory Members.

ADDRESS

OF

CHAUNCEY M. DEPEW, LL. D.

Delivered Before the New York State Bar Association at its Annual Meeting at Albany, N. Y., in January, 1896.

Mr. President, and gentlemen of the Bar Association of the State of New York:

You will not expect of me a technical discussion of constitutions, codes or statutes. The needs of the State or the country in these respects will be ably presented in the papers which will be read during your session.

A meeting of the lawyers of this great commonwealth has a profounder meaning than suggestions for amendments to laws or facilities in procedure. By virtue of our official distinction as officers of the court there devolve upon us public duties of the greatest importance. The larger the question and the greater the perils involved in its decision, the more clear is the mission of the Bar Association to give to the subject its attention and to the country the results of its calm deliberation. Never during the seventeen years of our existence has our meeting been held at a period so interesting and at the same time so fraught with dangers.

Ours is a lawyer's government. It was the agitation by the patriotic members of the profession which brought on the Revolutionary War. It was the con-

servative wisdom of the lawyers which framed the Constitution of the United States. Twenty of our twenty-four presidents have been lawyers, as were twenty-four of the fifty-four signers of the Declaration of Independence, and thirty of the fifty-five members of the convention which framed the Constitution of the United States. A large majority of the members of both houses of Congress, and of both houses of the Legislatures of the several States have always been and still are members of the profession.

The checks and safeguards against revolutionary action which distinguish the institutions of the United States from those of all other democracies are the fruits of the wisdom and foresight of great minds trained to the law. Therefore the sentiment contained in Cicero's famous maxim, "silent leges inter arma," is specially pregnant for the hour. Cicero was the greatest lawyer of his time, and of the whole Roman period. Like most of the eminent members of the bar in our days, he was also an orator and a statesman of the foremost rank. In the forum and in the Senate he had fearlessly defended the right and assailed the wrong, and maintained justice and liberty. A craze for conquest had created armies. Wonderful victories had made famous generals, and triumphal processions had inflamed and intoxicated the people. He saw what no other statesman of his period did, that beside the captive chained to the chariot of the conqueror as it proudly rolled along the Appian Way with the acclaim of the multitude, stalked also in chains the figure of Roman liberty. This wrung from him the sentence which has become one of our legal maxims.

Cæsar crossed the Rubicon. The army and the people gave him dictatorial power. The patriots assassinated him. The army executed the patriots. The successful general and dictator instructed his soldiers to pursue and kill the great lawyer, not for any crime, but for words spoken in debate in the Senate of Rome for the Republic, and against its arch enemy. When Cicero's throat was cut upon the highway by the soldiers of Antony, the body of Roman Law, which protected life and property, and judicially decided rights and remedied wrongs, and which had been five hundred years in slow and laborious construction, was buried with his blood. From that time until the Dark Ages the will of the autocrat of the hour was the law of the world. It devastated provinces. It depopulated countries. It made deserts of vast territories. It consigned to untimely graves with every form of horror and suffering untold millions of the human race. The falling temple of liberty carried down in its ruins civilization, law, learning, art, humanity and religion. Centuries passed by, all dedicated to war until the church arrested its savagery for the moment by the truce of God. This declaration of the pious and renowned Bishop of Aquitaine is the foundation of the jurisprudence of modern times. By the Truce of God, for four days in the week one simple law of life and liberty prevailed. The traveler could be upon the highway, the merchant dispose of his goods, the artisan work in his factory, the farmer follow his plough, the housewife and the maiden be afield garnering the harvest, without fear of murder, outrage, conscription or robbery. But, for ages yet to come, under the necessities for pro-

tection, induced by perpetual wars, Europe was divided into masters and slaves,—the masters the feudal lords, and their armed retainers,—the slaves, the tillers of the soil, the artisans and laborers. The tradition and education of the ages that rights could only be established and wrongs could only be redressed by the sword, created the Law of the Sword. For hundreds of years all disputes were settled by the gauge of battle. Titles to real estate, difficulties as to boundary lines, questions of contract and of tort, matters of heritance and the settlement of estates were submitted to private combat for "justice." The courts met at the appointed places. The judges sat clothed in their robes of office. The criers of the court announced the case, and the litigants entered the lists armed for the fray. The rules for the combat were as well established as the rules of trial are in the courts of to-day. The theory over it all and under it all was that the "God of Battles" would be on the right side. Cromwell, who was intensely religious, fought for his faith. Napoleon, who had no religion, fought for glory. Each declared that God was on the side of the strongest battalions. The Almighty in these judicial combats evinced his abhorrence of them by so far withholding His interposition that the most skilled athlete and the best trained duellist always succeeded. So strong is the power of custom that this right to appeal to private combat by the dropping of a glove before the judge that the arbitrament of arms actually remained a part of the Statute Law of England's colonies in America until the independence of our Republic—and of England herself until 1818. Nay, more, it survived in active practice

until fifty years ago, in the form of the duel, in nearly every part of this country. No man could retain his position at the bar or in society who would refuse a challenge. In the ante-bellum days hundreds of brilliant young lawyers who went to the South to try their fortunes were challenged by the best shots of the local bar, who wanted to remove the dangerous competition of their Yankee rivals; and many of them fell before the bullets of the trained duellists to whom, below the Mason and Dixon line, pistol practice was an essential part of a "gentleman's" education.

The best evidence of healthy public sentiment, or rather of Christian civilization and enlightenment in the law, is that to-day the man who loses caste in the duel is not he who refuses, but he who challenges. In every State in the Union the duellist has become by statute a felon, and the most striking instance of any of the change in public sentiment is that juries never hesitate to convict him of a crime. Public sentiment now declares that true courage hands the duellist or would-be duellist over to the police, and appeals to the law for the adjustment of difficulties.

While this healthful advance in civilization and this undoubted public sentiment supporting it, mark the new relations between individuals, there has been little if any progress in the peaceful, lawful and orderly settlement of international disputes, involving communities.

The barbarous, murderous and uncertain methods of the ancient and the medieval periods still prevail. The alarms of war agitate a world. The columns of our daily papers are filled with cables and telegrams

announcing the rage of nations and the imminence of their flying at each other's throats. The battle blood which is the inheritance of the ages is aflame for fight.

Only one power keeps the nations of Europe from instantly declaring war. The bankers and business men have become the arbiters between nations. In modern conflicts, so vast and expensive are the preparations for and operations of war that the longest purse wins. Neither Germany, nor France, nor Austria, nor Italy, nor Russia, nor Spain can hurl their armies at each other and equip their navies for fight without the consent of the great bankers of the world. The only two nations which may be said to be free from this thralldom, because of their wealth, their commerce and credit are the United States and Great Britain. "War," said Erasmus, "is the malady of princes." He might have added, the danger of Republics.

The spirit of war—largely the inheritance of the dynastic ambitions of royal houses—is the chief incentive to the employment of the best inventive genius for engines of destruction. Improvements in naval architecture are first for war and next for commerce. If armor is made which will resist a new shell, there follows the gun that will fire the shot which will pierce the armor. If a "magazine" is constructed which will destroy its score of human beings in as many seconds, along comes the machine gun which will kill its hundreds of fathers, brothers, sons and husbands in the same time. The resources of chemistry and electricity are exhausted to discover the implements by which great armies may be annihilated in an hour.

The events of the past few weeks have demonstrated how easy it is to arouse the fighting blood among our own people. A generation has come upon the stage since the Civil War who are eager for battle.

The greatest ministers and leaders for peace whom I ever met were the generals whose fame fills the world, and whose victories were in our civil strife—Grant and Sherman and Sheridan. During the whole of their lives after the war they were the apostles and preachers of peace.

An Eastern writer says: "We have furnished a great and famous soldier whom your historians scarcely mention, but who ought to rank above Cæsar or Hannibal or Napoleon, and his name and title are Genghis Khan. To him belongs the unequaled glory of having slain 18,400,000 human beings in eleven years." He had a definite object, which was to destroy cities and villages and make the whole world a pasture field for nomadic tribes. Attila, the Scourge of God, on the other hand, made it his proud boast that no grass ever grew upon the fields which had suffered the hoof beats of his horses. How much greater, how much nobler, how much more humane was the sentiment of the philosopher who said that "the true benefactor of mankind is the one who makes two blades of grass to grow where only one grew before!" Napoleon, at St. Helena, made this apologetic remark: "I only killed a million of men in all my wars." He did not mention the ten millions who died from starvation in the wildernesses which he left behind him.

The strongest evidence of the fervor and force of this sanguinary sentiment among us to-day is the action of

Congress upon the President's Venezuela Message. By the Constitution of the United States the war power belongs to Congress, and yet the Senate and House of Representatives with unanimity and hot haste, rushed to record their approval of what they believed at the time to be a declaration of war, and their chaplain appealed to the Prince of Peace with this marvelous invocation: "O Lord, may we be quick to resent anything like an insult to our nation; so may Thy Kingdom come and Thy will be done on earth as it is in Heaven. Amen." One does not know, in the presence of such a travesty upon the Sermon on the Mount, whether to say "Good Lord?" or to exclaim "Great Scott!"

There are to-day in Europe—on a so-called peace footing—seven millions of men in arms. Every laborer, as he goes to his shop or to his work in the fields, carries upon his back and keeps upon his back during the whole of his day a fully armed soldier. The combined war debts of these governments are sixteen thousand millions of dollars. Such are the burdens under which anarchy grows and socialism thrives, and populations seek by emigration to the wilds of Asia and the wastes of Africa and the tropical countries of South America, as well as to our own more favored land, an escape from intolerable conditions.

There are occasions when war is both right and necessary, and a nation must embark upon it without counting the consequences, but the issue of battle is never certain, nor does the arbitrament of war always end in right or justice. The struggle between Prussia and Austria for supremacy in the German Empire was decided not by the

merits of the case, but by the needle gun in the hands of the Prussians used against the old-fashioned musket of the Austrians. To his everlasting honor the old king of Prussia, the first emperor of Germany, a soldier born in camps and whose life was practically passed in arms, gave his best efforts for the maintenance of the peace of Europe. Napoleon the Third, to sustain a falling dynasty, declared war, and lost his throne, deprived France of two of her fairest provinces and put upon her a load of debt involving grinding taxation.

Our war of 1812 was right if our dispute with Great Britain and our demand for fair treatment and justice could not be settled by arbitration. It is a curious and impressive fact that the purpose for which that war was made was not gained by the war. The *casus belli* was not considered in the treaty of peace, but was settled afterwards by arbitration. The Civil War might have been averted at one time by payment of a proper indemnity to the owners of the slaves. In the passions of the hour that period passed by, and the slaves were freed and the Republic held together by our great civil strife. But the cost of the war was half a million people killed, a million crippled and wounded, the devastation and destruction of all the material interests and visible property of ten States; and the loss in money of four thousand millions of dollars on the one side and as much on the other. The Republic united and free is worth all that it cost both in blood and treasure, and much more; and yet, had the South been as strong in credit and resources, with as large an available fighting population as the North, it is doubtful whether a war between men

of the same blood, each thinking they were fighting for the right, would not have ended in a drawn battle.

The argument has recently been advanced by Bismarck, by the London Times, and only the other day by a distinguished judge speaking to a company of students, that without war the moral tone of a people deteriorates, and they lose a fine sense of patriotism and a keen appreciation of national honor. At the breaking out of the Civil War, of the thirty millions of people in the United States there were not twenty-five thousand who had had any actual experience of campaigns; and these few veterans had only served in the Mexican War of twelve or fifteen years before. Ours was pre-eminently a peaceful population. For three generations the blood of the people had not been stirred by a great conflict nor themselves called to arms. And yet when the flag was fired upon, and the existence of the Republic was at stake, there was a popular uprising and enlistment unknown in ancient or in modern times. There were in this country three millions of men in arms on the one side or the other. At Donelson, Shiloh, Corinth, Chickamauga, Vicksburg, Fredericksburg, Chancellorsville, Gettysburg, the bloody Battle of the Wilderness, and Sherman's March to the Sea, were exhibited valor, heroism and patriotism of a higher and nobler type than any other age can boast. The lawyers did their best to bring about a peaceful settlement between the North and the South; but when the armed struggle came, they enlisted for the war, in proportion to their number, in far greater ratio than any other profession, calling or vocation. Nearly all the volunteer officers who became brigadier and

major-generals, and won distinction equal to that attained by the gallant graduates of West Point, were members of the profession of the law. No lawyer better fulfilled his duty to his profession, lived up to a higher ideal in politics and in public life, or performed more heroic deeds upon the battlefield than that brave and distinguished member of our Association who died within the last week, Gen. Francis C. Barlow.

Now is the time for the profession to perform a great work upon the lines of the lawyers of the centuries in promoting international arbitration. The present dispute between the English-speaking races which is agitating the world calls for both practical wisdom and legal acumen for its solution. There is no dissent in this country from the Monroe Doctrine as promulgated by President Monroe and interpreted by Jefferson, Madison, Webster and Calhoun. Alexander Hamilton, the greatest lawyer of the Revolutionary period, and one of the most creative geniuses of our country, stated this rule for our guidance in the Federalist with that clearness of insight into the future by which he stamped upon our institutions the elements of conservatism and perpetuity. No European aggressions upon the Americas will be permitted by the United States which will endanger our safety or subject our sister republics to European despotisms. Yet any one who studies the Monroe Doctrine will see how in each individual case, except where there is a flagrant violation, like the French invasion of Mexico, the applicable interpretation of it should be the subject of judicial determination.

The feeling in the United States against Great Britain

is more easily aroused than against other countries for many reasons. In the first place, we are blood relations, and family quarrels are always hasty and fierce. Our battles of the Revolution and of the War of 1812 have been with England. The attitude of her government during our Civil War was specially irritating, and disputes about boundary lines and fisheries have frequently arisen. The diplomatic correspondence of her ministers, especially of those who have not visited America, is often characterized by a spirit of paternal chiding or coddling which we rightfully and vehemently resent. But while this feeling has not abated with us, there has come into power in Great Britain—and we have scarcely noticed it, indeed it has only been brought strongly and convincingly to our attention by the recent terrific outbreak against Germany—a force unknown and unheard of at the time of George III, or the War of 1812, or even our Civil War. It is the all-powerful democracy of Great Britain, which universal suffrage has brought to the front, and which is to-day the real power in the British Islands. This force is cordial in its friendship for our people and country. There are no obstacles in the way of a peaceful adjustment, upon a permanent basis, of all present and future difficulties between the democratic spirit—the people—of the United States and the democratic spirit—the people—of Great Britain.

Unless we should be driven to it by a stress of circumstances not now perceptible, or by difficulties and dangers which could not be averted in any other way, we do not want a great standing army. It would be a menace to our peace, a menace to capital and a menace to labor.

In a Republic a dictator always stands in the shadow of a large regular army.

We require a navy sufficiently large to protect American citizens and American commerce in any part of the globe. We should have our ports in condition to be defended in the possible, but scarcely probable, event of war with a foreign nation. But to have a navy on a footing with the great sea powers of Europe, and a standing army equal on a peace footing to the emergency of sudden hostilities, involves just the dangers of foreign entanglements against which Washington warned his countrymen in his farewell address. The maintenance of this force in idleness would take permanently half a million of youth from our industries, and the Federal government would either have to meet an enormous annual deficit of revenue by piling up debt, or resort to the process of direct taxation upon the people.

The United States is the only nation so situated that it can with honor and safety move upon the pathway of peace for an International Court of Arbitration. North of us lies Canada with its vast territories—larger in area than the United States—but with a sparse population of some five millions of people. It seeks no war. It wants no hostilities and no disagreements with our Republic. It is anxious for commercial union. Political union will follow whenever we desire to extend the invitation. So there is no danger from Canada. To the south of us is Mexico, with only twelve millions of people, of whom ten millions are Indians, uneducated and degraded. We need fear nothing from Mexico; nor do we want her. That population incorporated into our political system would

corrupt our suffrage. The presidency of the United States and the political control of the Republic might be decided by the Indians of Mexico. Farther away are the Republics of the Isthmus of Darien and of South America. The perpetual wars between these nations and the constant internal revolutions and feuds which have characterized them have left that part of the Western Hemisphere at the end of three hundred years, though its climate, soil and resources, are as attractive and great as those of the north, with a scattered population of fewer then twenty millions, two-thirds of whom are Indians and half-breeds. We have no fear of them. And now look at Europe.

It is three thousand miles across the ocean from the nearest seaport of any European power to any seaport of the United States. Our country has seventy millions of people, and seventy billions of dollars of accumulated wealth. So great has been our prosperity, because of one hundred and two years of peace and only five of war, so free have we been from the strifes which have exhausted the resources of Europe that the taxing power of the government has not yet touched for any purpose the real and personal property represented in these seventy thousand millions of dollars of accumulated wealth. According to the census of 1890, we have 9,200,000 fighting men. The experience of the Civil War has shown that from them could be drafted, mobilized and instructed in three months three millions of soldiers. All the transports and navies of the world could not land upon our shores an army which could march 100 miles from the sea coast, or even return to their ships. With

all the world in arms against us, the vast interior of our continent, except in its industrial and economic phases, would know nothing of the trouble and never see a foreign uniform—except on a prisoner of war. Secure in our isolation, supreme in our resources, unequaled in our reserves, and free from dangerous neighbors, we occupy among the nations of the globe a position so exalted and safe that to compare us with other countries would be absurd. The statesman or the politician who really fears for the safety of this country is a fool. The statesman or politician who does not fear (because he knows better), and who yet preaches of our weakness and our vulnerability, is a demagogue, and he insults the intelligence of the American people. This great reservoir of force for all purposes—the American Republic—this mightiest engine of war and most beneficent power for peace on the face of the globe, can extend the right hand of fellowship to warring brethren across the Atlantic and promulgate with honor and dignity a scheme for an international tribunal, and lead in the movement.

The first crisis in our national history came soon after the machinery of our government was put in motion by the first president, General Washington. The people demanded a war with England, to help France, when we had neither arms nor credit nor money, and France was powerless and almost bankrupt in her revolutions and her internal and international complications. The United States needed commerce and trade; needed the freedom of the seas; needed the control and improvement of its rivers and inland lakes for the development of its

resources. It required peace, rest, and opportunity to attract immigration, to build its States, to utilize its vast water power, and to bring out its exhaustless treasures from field, forest and mine. The task for peaceful settlement was entrusted to the head of the bar of the United States, the Chief Justice of the Supreme Court, John Jay. With infinite tact, with marvelous wisdom, with judicial candor and legal acumen he performed his immeasurably great duty. For the first time in treaties between nations was inserted, through his influence, a declaration for the adjustment of all disputes between the United States and Great Britain by arbitration. Under the beneficent working of this principle, nearly one international case a year has been settled during the past eighty years. These cases have excited no comment, because it is only war which illumines the sky, and, in the baleful conflagration which consumes peoples and properties, attracts the attention of the world. General Grant held it to be a crown as glorious as that of Appomattox that he brought about the Genevan arbitration under this clause of the treaty of Chief Justice Jay. The people of the English-speaking nations must get beyond the narrow idea of accidental arbitration for each case as it may occur, with its semi-partisan organization, and agree in constituting a permanent international court.

Massachusetts and Rhode Island had a difficulty which in other cases would have led to war or intestinal feuds. It was settled by the Supreme Court of the United States. Missouri and Iowa would be at each other's throats, but the Supreme Court of the United States calmly considered the questions at issue between them, and its judg-

ment was accepted. The question of the liberty of Dred Scott went to this tribunal in the midst of the most passionate political discussions of the century. The decision of the court was against the dominant sentiment of the hour, but it was accepted until legislation and constitutional provisions remedied the difficulty. The great debate over the income tax divided sections and parties, and in the arena of politics the matter was pregnant with political revolutions. The Supreme Court decided the question one way, and one judge of the nine, changing his opinion upon reflection, reversed the judgment. The country at once accepted the decision as the verdict of justice and of right.

Had there been an international Court of Arbitration in the Venezuelan matter, Lord Salisbury could not have pleaded that there was a boundary line embracing territory so long and unquestionably held by the British that they could not in honor submit the question of their title to the court. Both the English and the Americans have been educated to believe that though anybody may make a claim upon any property, the court can be relied upon to dismiss the complaint, if it is unworthy of being entertained, or disavow jurisdiction, should there be any doubt, or if it considers the matter, to adjust it upon the eternal principles of justice and right. The United States and Great Britain have the same common law. Their legislation has been for the past fifty years along similar lines of progress and liberty. Their courts and methods of procedure are alike in most of their characteristics. The cases reported and principles settled in each country are quoted as authority in the courts of the other. Amer-

ican lawyers have found it not difficult to become great in the English forum, and English, Scotch and Irish lawyers have been successful at the American bar. We speak the same language, we read the same Bible and the interests over which we clash are always susceptible of judicial construction and adjudication upon principles which we mutually understand. It is possible for these two great countries, out of this present difficulty to evolve a tribunal of international law and justice, which shall be in perpetual session, whose members shall be selected with such care, whose dignity shall receive such recognition and whose reputation shall be so great that each nation can submit to it any question in dispute and bow to its decision with safety and honor.

We, the lawyers of the United States, and our brethren, the lawyers of Great Britain, faithful to the traditions of our profession and the high calling of our order, can agitate and educate for the creation of this great court. We recall that even in the days of almost universal assent to the divine authority of kings, Justice Coke could boldly challenge and check the autocratic Charles, with the judgment that the law was superior to the will of the sovereign. Christian teachings and evolution of two thousand years, and the slow and laborious development of the principles of justice, and judgment by proof demand this crowning triumph of ages of sacrifice and struggle. The closing of the nineteenth, the most beneficent and progressive of centuries, would be made glorious by giving to the twentieth this rich lesson and guide for the growth of its humanities and the preservation and perpetuity of civilization and liberty.

EXTRACT FROM THE ANNUAL ADDRESS

OF

Edward G. Whitaker, President of the New York State Bar Association, delivered before the Association in January, 1897:

The next attempt made by our Association during the last year was to impress upon the people the beneficial results that would flow from the abolition of war, and a substitution in its place of arbitration. This was made pursuant to a resolution adopted at our last meeting. The moving cause was a sudden and unexpected possibility of war between the United States and Great Britain.

It brought the question of war or peace sharply before the people. And the lawyers, true to their peaceful instincts and sense of justice and humanity, were the first to realize that a war between the two great Anglo-Saxon races would be a calamity. A committee upon International Arbitration was appointed. It had several meetings, prepared a memorial to the President, and a plan for an International Court, submitting them to a special meeting of the Association, called for that purpose, at which meeting the memorial and plan were approved and commended. The plan and memorial were submitted to the President and Secretary of State by a committee who went to Washington for the express

purpose. The reception of your committee by the President was most cordial. He expressed himself as deeply impressed with the unselfish and patriotic efforts of the Association, and intimated that the suggestions would be of great practical interest to the Government. This memorial and plan have been beautifully printed and distributed to the leaders of thought and leading statesmen and divines of the civilized world, and have received nothing but the most favorable comment.

The question of international arbitration is so stupendous, its consequences involving almost a transformation of governments, and an obliteration of traditions of peoples, that at first blush even the conception of such a scheme appears bold in the extreme, and an attempt at consummation by comparatively a few lawyers unpardonably audacious. But we should remember that everything must have a beginning, and to whom could such a beginning be more appropriately committed than to the lawyers? That this is true is fully proved by history. The lawyer, as we know him to-day, is of comparatively recent origin. Not until the middle ages did he appear in his present character. And so suddenly did his influence burst upon Europe that his coming was almost like an apparition. He came at a time when the whole of Europe was a battelgrouńd for private feuds, when might made right, when to desire and take by force were similar and simultaneous impulses; when brute force was the sole test of justice. And with his coming came a new power into the world. The steel-clad baron and his retainers were awed by terms they had never before heard and did not understand, such as precedent, prin-